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ABSTRACT

It was hypothesized that adjudged severity of rape depends on sexual/social history of the victim, even when non-consent is established. Ss (N=650) recommended sentences for rapists for five types of victim when victim testimony was corroborated vs. non-corroborated. "Victim" effect was significant, "corroboration" effect was not. Sex differences were significant. (Author)

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On Attribution of Responsibility and Punishment for Rape[1]

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Abstract

It was hypothesized that adjudged severity of rape depends on sexual/social history of the victim, even when non-consent is established. Ss (N = 650) recommended sentences for rapists for five types of victim when victim testimony was corroborated vs. non-corroborated. "Victim" effect was significant, "corroboration" effect was not. Sex differences were significant.

Pepitone (1975), reviewing recent studies in the social psychology of crime, has noted a growing interest in the study of protolegal attitudes, or attitudes concerning criminal aggression and punishment. Among these attitudes are those concerned with "discounting of responsibility" for crime, or deciding how much the criminal (rather than the victim or the situation) is to be held responsible.

The crime of rape lends itself well to a study of discounting of responsibility, in that attribution of victim precipitation is almost a cliche (e.g., Ploscowe, 1968).

Sellin and Wolfgang (1964), in their classic work on the relative seriousness of crime, found rape to be judged second only to murder and as much more serious than any other crime. Yet both socio-legal and psychological studies have demonstrated that rape is judged to be more or less serious according to circumstances. Kalven and Zeisel (1966), reviewing a large number of rape trials, found that convictions were rare even for well-documented cases,

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unless the victim and rapist were strangers and/or there had been extreme violence. They proposed that jury members seemed to be using the concept of "contributory negligence" (not legally applicable in rape cases) to define rape as a first or second-degree offense, and acquitting in the latter category of cases. A University of Pennsylvania Law Review study (1968) found that police officers were more likely to "found," or judge worthy of further investigation, rape cases involving strangers and/or violence than other cases. Jones and Aronson (1973), in a questionnaire study, found that a longer sentence was recommended for the rape of a married woman than of a divorcee, a previous part of the study having established that the divorcee was considered less "respectable."

There are at least two possible interpretations of these differences in adjudged severity of rape, and they have not been separated in previous studies. First, it is possible that descriptions of a previous victim/rapist relationship, or of "illicit" sexuality when used to describe the victim render her less worthy. Landy and Aronson (1969) have demonstrated that a crime against an "unworthy" victim is judged less serious than a crime against a "worthy" victim. Secondly, it is possible that evidence as to previous victim/rapist relationship, or evidence concerning past consensual intercourse, is interpreted as raising the probability that the woman consented to intercourse on the instance in question. It is following this line of reasoning that such evidence is admissible in rape cases in many jurisdictions (Yale Law Review 1952).

The present study tests the hypothesis that the effect of victim history upon judgment of seriousness of rape is a direct one, rather than one mediated by judgments as to the likelihood of consent by the woman. In order to test

this hypothesis, we presented respondents with two types of case history. In one type the victim's testimony was uncorroborated and allowed for ambiguity as to the consensual vs. forced nature of intercourse. In the second type, independent corroboration of use of force (medical evidence, witness) was included. The description of the victim was independently varied. Victim and rapist were described as strangers or as a dating couple; in the latter case there were several versions of the sexual history of the woman. It was predicted that the variable of type of victim would affect judgments of the seriousness of rape, and that this would be true even in cases where use of force was corroborated.

It was thought that investigation of sex differences would be a necessary part of an investigation of attitudes toward rape, although no direction of difference was predicted.

Method

Ss (N = 650) were students in day and evening classes in a four-year college near Philadelphia. The characteristics of this convenience sample were as follows: approximately 60% men and 40% women; 70% of usual college age (17-22) and 30% older (23-30); 50% of fathers in white-collar work (professional, managerial, clerical), 35% blue-collar and 15% self-employed or unclassified.

A male experimenter administered the questionnaire during classes; all conditions were represented in all administrations, and Ss were randomly assigned to conditions.

Ss read a simulated newspaper story, copied from a typeset original and headlined, "Jury Convicts in Rape Trial." There were ten versions of the story, half corroborated and half uncorroborated, and with the following

descriptions of the history of the woman and her past relationship with the man: 1) strangers, 2) dating-no previous intercourse, 3) dating-nonvirgin woman, 4) dating-previous consensual intercourse, and 5) dating-"promiscuous" woman.

All stories were in four parts, starting with a report of the guilty verdict and the ages (27 and 20) of rapist and victim. The second part reported the man's testimony; his defense was consent. In cases where the woman's sexual history was included it was in this section. The "nonvirgin woman" condition included the sentence, "It was proven at the trial that the woman had been a consenting party in a sexual relationship with another man." The "promiscuous woman" condition included the paragraph, "It was proven at the trial that the woman had been a consenting part in sexual relationships with several other men. Witnesses testified that she had a reputation for promiscuity in her neighborhood. Several defense witnesses testified that she had willingly participated in sexual intercourse with them after being "picked up" in bars."

The defendant and woman were described as agreeing that past consensual intercourse had not occurred except in the dating-previous intercourse condition.

Part three of the story described the woman's testimony; she denied consent, reporting that the man "struck her several times and forced her into sexual intercourse" (and, in the "stranger" condition, forced her into the car). Part four described the arrest as taking place in a parked car in the city park.

Corroborated cases included the sentence, "Medical evidence was introduced describing numerous bruises on the face and body of the victim." Also, in

corroborated cases, the arrest was described as taking place when police heard the woman screaming and investigated. In uncorroborated cases the woman was described as reporting rape when police made a routine check on a parked car.

The main dependent variable measure was recommended prison sentence for the convicted rapist, on a scale ranging from 1-50 years, with additional provision for sentences in months and for probation (no prison sentence). Four other judgments were included as possible determinants of recommended sentence; in these, Ss were asked to rate, on a scale from 0 to 100%, seriousness of the crime, damage (physical or emotional) done to the woman, amount of blame due to the man, and amount of blame due to the woman.

Results

A (5x2x2) ANOVA (of recommended sentences) was performed on the variables history (of woman and relationship), corroboration, and sex of respondent. As was predicted, there was no significant difference between corroborated and non-corroborated cases ($F = .346$, $df = 1, 630$, $p > .50$). The main effect for history was significant ($F = 14.90$, $df = 4, 630$, $p < .001$). The main effect for sex was also significant ($F = 4.23$, $df = 1, 630$, $p < .05$). There were no significant interaction effects.

Figure 1 shows, for male and female respondents, the mean years of sentence recommended as a function of the history variable, combining corroborated and non-corroborated conditions. Male and female subjects agreed in recommending sentences at the extremes of the scale for the "strangers" condition ($\bar{X} = 13.62, 13.46$) and the "dating-promiscuous woman" condition ($\bar{X} = 4.12, 4.97$). For male Ss, the only significant differences in recommended

sentences were between the "strangers" condition and all other conditions; differences within the "dating couple" category were non-significnat. This sharp contrast between "stranger" and all other conditions was not found for female respondents. Significant differences between male and female respondents were found only in the two intermediate conditions: "dating" and "dating-nonvirgin."

Analysis of additional dependent variable measures showed that ratings of seriousness of the crime ($r = .50$, $p < .001$) and damage to the woman ($r = .50$, $p < .001$) were equally strong predictors of recommended sentence. Attribution of blame to the man ($r = .39$, $p < .001$) and to the woman ($r = -.29$, $p < .001$) were not as closely related to recommended sentence.

Table 1 shows mean ratings (0-100% scale) of seriousness, damage, blame to man, and blame to woman by history condition (corroborated and non-corroborated conditions combined) for male and female respondents. In all instances, the main effects for history were highly significant. Main effects for sex were significant for seriousness, damage, and blame to the man, but non-significant in blame to the woman. Main effects for corroboration were non-significant for ratings of seriousness and damage. The effect of corroboration was significant for attribution of blame to the man and to the woman. Unexpectedly, the man was blamed less and the woman more in corroborated conditions.

Finally, checks on the adequacy of random assignment to conditions as a control measure were made by analyzing possible effects of age and socio-economic status on the main dependent variable measure, recommended sentence. Separate ANOVA showed no significant main effects for these variables and no significant interactions with history, sex, or one another.

A further effort to analyze the reasons for respondents' judgments was made by coding themes in short essays written in response to the question, "Why did you recommend the sentence you did?". The coding system included three major classifications: blaming the woman, blaming the man, and other (unclassified). Subclassifications of the first included the following themes: (1) led him on, (2) carelessness, (3) she lied, (4) because of dating relationship, (5) previous consent, (6) woman's sexual history, (7) insufficient evidence. Subclassifications of the second included these themes: (1) seriousness of crime, (2) suffering of victim, (3) despite her past he should be punished, (4) protect society, (5) deter recidivism, (6)deter others, and (7) rehabilitation. Each essay was scored for one dominant theme. Independent ratings by two raters achieved 85% agreement.

As is shown in Table 2, the percent of male and female Ss blaming the victim increases from just under 20% (19% male, 17% female) for the "Stranger" condition to over 60% (68% male, 62% female) for the "Previous intercourse" condition. The same pattern of sex differences observed for previously described dependent variable measures appears here, i.e. the only large difference between male and female respondents appears in the "Dating" and "Dating-Nonvirgin woman" conditions.

Discussion

The results support the hypotheses that relationship between victim and rapist and any prior consensual intercourse on the part of the victim result in redefinition of the crime as being of lower magnitude, and that this effect is a direct one rather than one mediated by judgments about the probability of consensual vs. forced intercourse in ambiguous cases.

The legal implications of this finding are obvious. As the majority of reported rapes involve previously acquainted persons (Amir, 1971), and as the majority of women over 19 are not virgins (Kinsey, 1953), the findings of this study suggest that evidence on these points when used in many rape trials would tend to introduce bias in favor of the defendant, regardless of corroborating evidence of use of force in the instance in question. Laws restricting admissibility of such evidence have recently been passed in several jurisdictions, for example, in Pennsylvania in 1976 (after the data for this study were gathered).

Sex differences in this study appeared in the effects of victim history on judgments of rape. Male subjects tended to recommend reduced sentences in all conditions where rapist and victim were not strangers. Female subjects did not judge all such conditions alike but recommended sentences proportional to the extent of previous relationship and the extent of any previous consensual intercourse. It might be suggested that these differences reflect sex differences in conceptions of the dating contract and in definitions of "good" or respectable women.

As to the determinants of recommended sentencing, adjudged seriousness of the crime and damage to the victim are shown to have a direct and fairly strong relationship to sentence. The variables of attribution of blame to

rapist and victim appear to have a more complex relationship to recommended sentence. Although the 'derogating the victim' effect shown in this study was not as strong as that shown in the similar Jones & Aronson (1972) work - in that case the 'respectable' woman was blamed more - it is hypothesized that such a tendency competed with another tendency to attribute victim precipitation to the sexually active woman. These competing tendencies would account for three effects: the relatively low negative correlation ($r = -.29$) between sentence and blame to the woman; the relatively high proportion of blame attributed to the woman by both men and women in all conditions; and the greater blame attributed to the woman in corroborated conditions (the 'victim' status of this woman was made more salient by the graphic descriptions of bruises and screaming).

Future research could profitably be directed to investigating the separate effects of victim-rapist relationship, sexual history of the victim, and non-sexual "respectability" of the victim.

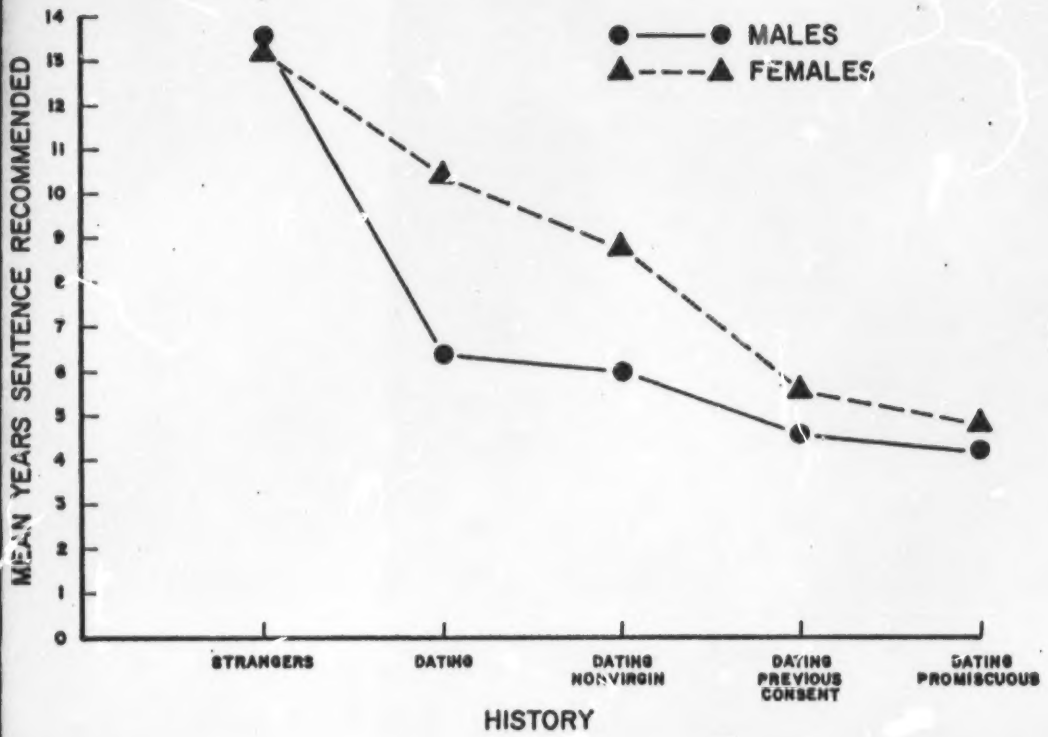

FIGURE 1: MEAN SENTENCE RECOMMENDED FOR A CONVICTED RAPIST FOR FIVE DESCRIPTIONS OF HISTORY OF THE DATING RELATIONSHIP AND WOMAN.

TABLE 1

Judgments of Seriousness, Damage, and Blame Attributable in Rape for Male and Female Raters for Five Descriptions of the History of the Dating Relationship and the Woman.

	Mean Ratings (0-100% Scale)							
	Seriousness		Damage		Blame Man		Blame Woman	
History	M	F	M	F	M	F	M	F
Strangers	59	59	66	68	75	70	29	32
Dating	47	60	50	68	59	69	36	28
Dating (Non-virgin woman)	43	54	41	55	54	63	45	35
Dating (Previous cons-	33	45	35	44	48	59	38	36
Dating (Promiscuous woman)	44	44	35	38	55	52	41	45
Effects, F-tests	History, $p<.001$ Corrob., NS Sex, $p<.001$ Interactions, NS		History, $p<.001$ Corrob., NS Sex, $p<.001$ Interactions, NS		History, $p<.001$ Corrob., $p<.001$ Sex, $p<.05$ Interactions, NS		History, $p<.001$ Corrob., $p<.05$ Sex, NS Interactions, NS	

TABLE 2

Percent of Male and Female Respondents Blaming the Rape Victim

Sex of Respondent	Strangers	Dating	History Dating Nonvirgin	Dating Promiscuous	Dating Past consent
Male	19	53	54	49	68
Female	17	38	40	54	62

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